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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/553,810	04/21/2000	H. Donald Wilson	WILSONLESSAC	6936

545 7590 01/30/2002

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EXAMINER
AZAD, ABUL K

ART UNIT	PAPER NUMBER
2654	9

DATE MAILED: 01/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/553,810	WILSON ET AL.	
	Examiner	Art Unit	
	ABUL K. AZAD	2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 November 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on November 5, 2001.

2. Claims 1-19 are pending in this action. Claims. Claims 9-19 have been newly added.

3. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 09/553,811. Although the conflicting claims are not identical, they are not patentably distinct from each other because preamble of claims of instant application are directed to a method of speech recognition and preamble of claims of 09/553,811 are directed to a method of speech training. However, body of claims of

both applications are directed to speech recognition, which can determine mispronunciation and given a training program to the user based on the determination to correct such mispronunciation. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to direct the claims toward speech training or speech recognition because both speech recognition and speech training are performed by the claims of both applications.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-7, 12 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Minematsu (US 6,249,763).

As per claim 1, Minematsu teaches, "a method of speech recognition using a microphone to receive audible sounds input by a user into a first computing device . . . audible sounds corresponding to mispronounced words and phrases," comprising the steps of:

"receiving said audible sounds in the form of electrical output of said microphone" (col. 8, lines 31-39);

"converting a particular audible sound into a digital representation of said audible sound" (col. 8, lines 31-39);

"comparing said digital representation of said particular audible sound to said digital representations of said known audible sounds to determine which said known audible sounds is most likely to be the particular audible sound being compared to the sounds in said database" (col. 2, line 65 to col. 4. line 59);

"outputting as a speech recognition output the alphanumeric representations associated with said audible sound most likely to be said particular audio sound" (col. 20, line 65 to col. 21, line 23);

"receiving an error indicating from said user indicating that there is an error in recognition." (col. 18, lines 53-63);

"receiving from said user an indication of the proper alphanumeric representations of said particular audible sound" (col. 15, lines 49-58);

"determining whether said error is a result of a known type or instance of mispronunciation" (col. 18, lines 53-63);

"in response to a determination of error corresponding to a known type or instance of mispronunciation, presenting an interactive training program from said computer to said user to enable said user to correct such mispronunciation" (col. 6, lines 8-34).

As per claim 14, it is interpreted and thus rejected for the same reasons set forth above in the rejection of claim 1.

As per claim 2, Minematsu teaches, "said interactive training program comprises playback of the properly pronounced sound from a database of recorded sound corresponding to proper pronunciations of said mispronounced words and phrases" (col. 20, lines 48-64).

As per claim 3, Minematsu teaches, "the user is given the option of receiving speech training or train the program to recognize the user's speech pattern." (col. 22, line 6-42;options are inherent, where Minematsu teaches, system training session and recognition/correction program for the user).

As per claim 4, Minematsu teaches, "said determination of whether said error is a result of known type or instance of mispronunciation . . . mispronounced words and phrases using a speech recognition engine" (col. 23, line 65 to col. 24, line 57).

As per claims 5 and 6, they are interpreted and thus rejected for the same reasons set forth above in the rejection of claims 3 and 4.

As per claim 7, it is interpreted and thus rejected for the same reasons set forth above in the rejection of claims 1-3.

As per claim 12, Minematsu teaches, "said user is presented with an interactive training program in response to the detection of repeated instances or a reliable single instance or pronunciation error" (col. 12, lines 1-58).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Minematsu (US 6,249,763) as applied to claim 7 above, and further in view of Bijl et al. (GB 2 323 693 A).

As per claim 8, Minematsu does not teach, "said database has been introducing into said computing device after said generation by speaking and digitizing has been done on another computing device and transferred together with voice recognition and error correcting subroutines to first computing device." However, Bijl (Abstract) has taught this feature. It would have been obvious to one of ordinary skill in the art at the time of the invention to use remote terminal so that one can easily control the voice recognition and correction from a remote location.

10. Claims 9, 10, 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minematsu (US 6,249,763) as applied to claims 1 and 14 above, and further in view of the applicant admitted prior art (Page 29).

As per claims 9, 10, 15, 16 and 18, Minematsu does not teach, "said interactive program instructs the user using Lessac System techniques and/or sound of musical instrument." However, Lessac teaches above limitation (Page 29) as acknowledged by

the applicant. It would have been obvious to one of ordinary skill in the art at the time of the invention to use Lessac system so as to substantially improve the pronunciation.

11. Claims 11, 13, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minematsu as applied to claims 1 and 14 above.

As per claim 11,13 and 17, Minematsu does not explicitly teach to perform the interactive training program based on user option to elect. It would have been obvious to one of the ordinary skill in the art at the time of the invention to give an option to the user whether he wants to learn the pronunciation or not so that the system will save time by not train a person who does not want to get training.

Conclusion

12. As of January 13, 2002 the former Art Unit 2641 has been designated as **Art Unit 2654**, which new Art unit number should be used in all future correspondence.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(703) 305-3838.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Marsha D. Banks-Harold**, can be reached at **(703) 305-4379.**

Any response to this action should be mailed to:

Commissioner for Patents

Washington, D.C. 20231

Or faxed to:

(703) 872-9314

(For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is **(703) 305-4700.**

Abul K. Azad

January 27, 2002

Marsha D. Banks-Harold

MARSHA D. BANKS-HAROLD
PRIMARY EXAMINER